G. R. S. App. F. IX-4]

File No. 160-42

Previous References.

Serial Nos. 1-3.

Cls 312-12 (1)
" 102-29 (1-4)
" 126-28 (1-2)
" 10-39 (1)

Later References.

Cls 312-12 (Enclosure
Cl file 312-12)
Cls 160-42 (4-5)
Cls:

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Three.

Part B for December 1942

SUBJECT.

Empowering the Assistant Commissioner and Amildar-Magistrates to take Cognisance of Cases under the Defence of India Act and the Public Security Act.

Serial No.

In pursuance of the scheme for the separation of the Judicial from the executive functions introduced on 10-5-1918, Assistant Commissioners, Amildars, and Deputy Amildars continued to be Magistrates, Ex-Officio, but they "ceased to exercise Magisterial functions in practice except such as are really executive in their nature, as for instance, those referred to in Chapters VIII, IX, X, XI and XII of the Criminal Procedure Code".

2) Assistant Commissioners and Ex-Officio Magistrates in charge of Revenue Sub-Divisions were, however, empowered by the Government Order, dated 19-3-1929, to try such cases as are referred to them by the District Magistrates when Special Magistrates cannot try the same on personal or other grounds.

3) In the interests of expeditious disposal of Criminal Cases and in view of a large increase in the number of cases ~~owing to recent troubles~~ in the present emergency, it has now become necessary to empower Assistant Commissioners and Amildars to try Criminal Cases. Amildars may try cases as II Class Magistrates and Assistant Commissioners in charge of Revenue Sub-Divisions and District Treasuries as First Class Magistrates. As a result of this, the existing Special Magistrates and the Assistant Commission-er and Amildar-Magistrates will have concurrent juris-dictions in respect of Criminal Cases arising in their

Serial No.

In pursuance of the scheme for the separation of the Judicial from the executive functions introduced on 10-5-1918 Assistant Commissioners, Amildars, and Deputy Amildars continued to be Magistrates Ex-Officio, but they ceased to exercise Magisterial functions in practice except such as are really executive in their nature, as for instance, those referred to in Chapters VIII, IX, X, XI and XII of the Criminal Procedure Code".

2) Assistant Commissioners and Ex-Officio Magistrates in charge of Revenue Sub-Divisions were, however, empowered by the Government Order dated 10-5-1929 to try such cases as are referred to them by the District Magistrates when Special Magistrates cannot try the same on personal or other grounds.

3) In the interests of expeditious disposal of Criminal Cases and in view of a large increase in the number of cases in the present emergency, it has now become necessary to empower Assistant Commissioners and Amildars to try Criminal Cases. Amildars may try cases as II Class Magistrates and Assistant Commissioners in charge of Revenue Sub-Divisions and District Treasuries as First Class Magistrates. As a result of this, the existing Special Magistrates and the Assistant Commissioner and Amildar-Magistrates will have concurrent jurisdictions in respect of Criminal Cases arising in their

2338/42

File No. of 194

General and Revenue Secretariat

Serial No. 2924.

their respective areas. The Assistant Commissioner and Amildar Magistrates may try such cases or classes of cases as will be reported by District Magistrates.

4) The High Court may be consulted.

Mr. Law & Order
Ans 8-10-42

5) Ans 8/10

6) The Law Member may please discuss this with the C J and ascertain his views before we proceed to consider.

Ans 9/10 Sec
Ans 10-10-42

7) Mr. Law Member

8) Please quit this Home on 17/10
Ans 13/10
Sec 13/10/42

9) I have discussed this with the Chief Justice on 17/10, at Mysore. He said that there would be no objection to authorising Dt Magistrates to transfer more cases or classes of cases to S. D. Cs as 1st class magistrates during the War & Dt Cs as 2nd class magistrates [illegible]. He expressed

OFFICE OF THE [illegible]
OCT 8 1942
No. 3074

OFFICE OF THE MINISTER FOR [illegible]
OCT 11 1942
No. 3111

Serial No.

however that as the ex-officio magts did not apparently look upon the latter criminal judicial work as an important item of work calling for prompt attention such a step might lead to delay in disposal.

10) I told him that the S.D.O.'s there would be told in the Circular to bring the two cases should be speedily attended to.

11) He was more inclined to accept the principle in respect of the 5 S.D.O.'s than to the Bns. But when it was explained that the Bns would be called upon to work as only 2nd class magts, they agreed

12) He was not quite clear whether direct Cognisance by the ex-officio magistrates would be workable. I explained that such Cognisance would be only in respect of prosecutions of the I.P.C. and in respect of offences under S. of I Rules, Public Security Act

(13) I informed him that Copies of the draft notfn & Circular to the magts would be sent to him demi officially before issue.

(14) The question may be considered in Council this evening, if the Dewan approves

21-10-42

Dewan)

15) Mem.

For Disposal at a meeting.

GENERAL AND REVENUE SECRETARIAT

Council Matter.

Proposal to empower Assistant Commissioners and Amildars to try such cases as may be referred to them by District Magistrates

Circulated to the Council of Ministers.

By Order,

W. S. [illegible]
24/10

Chief Secretary to Government.

22nd October 1942.

---

16) I think that the object in view will be achieved only if the Asst. Commrs. are empowered to take cognizance of cases

3654/24.X.'42 **Minister for Finance and Revenue.**

Minister for Law. (Sent)

2110/27.10 **Minister for Education.** 27.10

3637/29/10 **Minister for Local Self-Government and Public Health.** 30.10.42

31/10

Extract from the Proceedings of the Twenty-sixth *Meeting of the Council of Ministers held at Bangalore on* 5th November *194* 2

SUBJECT:-

Proposal to empower Assistant Commissioners and Amildars to try such cases as may be referred to them by District Magistrates.

OPINION OF THE COUNCIL.

17) Assistant Commissioners in charge of Sub Divisions and Amildars may be empowered to take cognizance of cases under the Defence of India Act as applied to Mysore and the Mysore Public Security Act.

(Sd) N. MADHAVA RAU.

Dewan of Mysore.

Law Secretary
with compliments.

9/11

10-11-42

10/11/42

"EXTRACT"

M. S. 9/11

Chief Secretary to Government.

Empowering Asst Commissioners and Amildars to try Criminal Cases 23.2.42

General and Revenue Secretariat | 45 File No. | of 194 | [App. F. III-2

LEGY. LAW DEPT. (SEC) 12 NOV 1942 GOVT. MYSORE

NOV 13 1942 o. 4198

Serial No.

18) Submitted With a D.F.N

CRM 12/11

19) Law Secy) 12/11/42

20) D.F.N. is submitted

Murder Law

12-11-42

13/11/42

21) 13/11

22) S.N. is submitted

Dewan

13-11-42

13/11/42

Final Note by the Minister for Law

Subject.— Proposal to empower Assistant Commissioners and Amildars to take cognizance of criminal cases, under certain special enactments

---

3) In pursuance of the scheme for the separation of the Judicial from the executive functions introduced into the state in the year 1918, Assistant Commissioners, Amildars and Deputy Amildars, though continued as Magistrates Ex-officio, ceased to exercise Magisterial functions in practice, except such as are really executive in their nature, for instance, those referred to in chapters VIII, IX, X, XI, and XII of Criminal Procedure Code. Assistant Commissioners and the ex-officio First Class Magistrates in charge of Revenue Sub-Divisions, were, however, empowered in 1929 to try such cases as were referred to them by the District Magistrates, when Special Magistrates could not try the same on personal or other grounds.

4) In view of a large increase in the number of criminal cases in the present emergency and the necessity for their speedy disposal, it has now become necessary to empower Assistant Commissioners and Amildars to take cognizance of criminal cases. The subject was considered at a meeting of the Council of Ministers on 5th November 1942 and it was resolved that Assistant Commissioners in charge of sub-divisions and Amildars be empowered to take cognizance of cases under the Defence of India Act as applied to Mysore and the Mysore Public Security Act.

5) I solicit the gracious sanction of His Highness to the above resolution of the Council.

Bangalore,
13th November, 1942.

MINISTER FOR LAW.

Submitted to His Highness.

26) I submit herewith a Final Note by the Minister for Law on the subject of the proposal to empower Assistant Commissioners and Amildars to take cognizance of criminal cases, under certain special enactments, for His Highness's gracious sanction.

K V Krishnaswamy

MINISTER FOR FINANCE & REVENUE,
in charge of current duties of the Dewan.

Bangalore,

14th November 1942.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Proposal to empower Assistant Commissioners and Amildars to take cognizance of criminal cases under certain special enactments.

27) ***Order.***

RJ 11/42

General and Revenue

Secretariat.

SUBJECT:—

Proposal to empower Assistant Commissioners and Amildars to take cognizance of criminal cases under certain special enactments

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

....L..a..w.....Department.

25-11-42

A344 / 28-11-42 Minister for Finance and Revenue. 28.11.42

After circulation, Law see & may bring this back with draft G.O. 28/11

1462 / 25.11 Minister for Law. 25/11

2550 / 26-11 Minister for Education. 27.11.42

Le 212 / 27/11/42 Minister for Local Self-Govt. and Public Health. 27.11.42

29) Please attach to Law Dept file 1/12/42

Law See 4/12

NOTE.—Contn. sheet

WD 0718—GPB—1,000—11-9-42

30-11-42

Empowering the Asst Commissioners and Amildars to try cases

General and Revenue Secretariat | File No. | of 193 | [App. F. III—2

Serial No.

OFFICE OF THE MINISTER FOR LAW
DEC 8 1942
No. 5000

(30) Submitted with a draft of a G.O. and two drafts of Notifications.
(3 drafts are submitted)

(31) It is submitted that under section 36 of the Mysore public Security Act, no Court inferior to that of a Magistrate of the First Class shall try any offence against that Act. In view of this, in the drafts placed below, it has been stated that the Assistant Commissioners and Ex-Officio I Class Magistrates will take Cognisance of Cases under the public Securities Act

Good. Thanks. Dec 9/12

CAR 2/12 (32) It is also for orders as to whether the drafts may be sent to the Chief Justice before issue. Please see Law Minister's Minute dt 21.10.1942 in para 13 of the notes.

SECY. LAW DEPT. GOVT OF MYSORE

(33) The drafts may be sent to the Chief Justice for perusal before issue.

Law Secretary 3/12/42

(34) Cus 3-12-42

for perusal

Cus 7-12-42

(35) Please send this with d.o to the Registrar High Court ~~and request~~ for advice on the adequacy of the drafts 3/12/42

Dec 9/12 (36) please type 1103 m & send today
Cus 4-12-42

(37) Jm 3 9/12/42

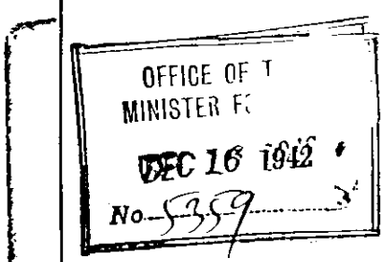
WD 02220—GPB—1,000—22-2-37

Empowering the Assistant Commissioners and Amildars - Magistrates to try Cases. Ltr

Cls File No. of 193

General and Revenue Secretariat

Serial No.



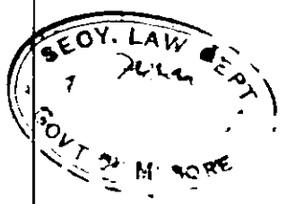
The Regr. High Court
No P4063 Dt 9. 12. 1942
Forwards for the opinion of the High Court the three drafts of Govt orders proposed to be issued by Govt in the matter of empowering Ex-officio Magistrates to take Cognizance of Cases under the D. P Act and P. S. Act.

From
The Registrar High Court
No Dy dis 190/42-43 Dt 15-12-1942.
States that the Judges have no suggestion to make about the drafts except that in Draft III the words "such of the" may be omitted.

(2) Submitted for orders as to whether the drafts in the file may issue after incorporating the correction suggested by the High Court

(3) (Noted with reference to Law Minister's Minute Dt 9. 12. 1942 in para 35 of the Note:

Chief Secretary 16/12/42



May issue omitting 'such of the' in draft III

16-12-42

16/12/42

16/12

16-12-42

16/12/42

To
The Reg^{r}. High Court
The Rev. Com^{r}
The S.P of Police
The DHS of districts

NO P 4322 - 33 Dt 17. 12. 42

Directs that during the period of war, the Asst Commissioners and Amildars be empowered to take Cognizance of Cases under the defence of India Act and the Assistant Commissioners be empowered to take Cognizance of cases under the P. S. Act.

To
The Compiler Mysore Gazette
NO 4334 Dt 17. 12. 42

Notifies the ~~conferring~~ investiture of powers on Asst Commissioners to take Cognizance of Cases under the D. I Act and Rules and also under the P. S. Act

To
The
The Compiler Mysore Gazette
NO P 4347 Dt 17. 12. 1942

Notifies the investiture of powers on Amildars to take Cognizance of Cases under D I Act

D.O. No. P 4063 Sec 3 dt 9.12.42

Dear Sir

I am desired to enclose herein drafts of ~~the Govt~~ orders proposed to be issued by Govt in the matter of empowering the Assistant Commissioners and Amildars who are Ex. Officio Magistrates to take Cognizance of Cases under the Defence of India Act and Rules thereunder and as under the Mysore Public Security Act and to request that Govt may kindly be furnished with the views of the High Court in regard to the adequacy of the drafts sent herewith.

(1 draft of a G.O.
2 drafts of Notfn.)

Yours sincerely

N. Sanjeevaiah
Secretary to G.

190
4243

Urgent 4192/42

HIGH COURT OF MYSORE,

Bangalore, 15 December *1942.*

From

N. Samaiengar, Esq., B.A., LL.B.,
~~T.V.SHAMIENGAR,~~
Registrar, High Court of Mysore,
BANGALORE.

SECY. LAW DEPT. * 15 DEC. 1942 * GOVT OF MYSORE

SECRETARIAT SECTION BRANCH. 15 DEC 1942 GOVT'S REV. SECRETARIAT

To

Narayanaswamy Naidu, Esq., B.A., B.L.,
Secretary to Government, Law Department,
Bangalore.

F/4 O With reference to D.O.No.P.4063/ dated 9 December 1942, forwarding drafts of Government Orders proposed to be issued by the Government in the matter of empowering Assistant Commissioners and Amildars to take cognizance of cases under the Defence of India Act and Rules thereunder and also under the Mysore Public Security Act and requesting the views of the High Court in regard to the adequacy of the drafts, I am directed o state that the Judges have no suggestion to make bout the drafts except that in Draft III the words such of the" appear to have been brought in by

mistake.

I have the honour to be

Sir,

Your most obedient servant,

N. Samaiengrs

Registrar.

G. R. S. App. F VI—G 2]

14 Copies

SUBJECT .....

.....

.....

3 drafts

I

Diary No. of letter replied to .....

Section Cts

File No. 160—42

Serial No. 1

General and Revenue Secretariat

( )

the *194*

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue ..... 14.12.....1942

Read—

Signed by Jm. m. K.V.

(1) G.O. No J 4550-4600/Cts 312-12-1 dt 10-5-1918 Sanctioning a scheme for separation of Judicial and Executive functions in the State and directing that Assistant Commissioners, Amildars and Deputy Amildars while Continuing as Ex-Officio Magistrates, shall Cease to exercise magisterial functions in practice except such as are really executive in their nature.

2) G.O. No J 5237-47/Cts 126-22

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Dt 18.3.1929 directing that Assistant Commissioners and Ex-Offcio Magistrates in Charge of Revenue Sub Divisions be empowered to try such Cases as are referred to them by the Dist. Magistrates when Special Magistrates Cannot try the same on personal or other grounds.

G.o. order P 4322-33 Dt 14.12.4

In pursuance of the Scheme for the Separation of the Judicial from the Executive functions introduced into the State in the year 1918, Assistant Commissioners, Amildars and Deputy Amil. ~~Hereafter~~ Continued as Magistr Ex-Offcio; but they ceased to exercise Magisterial functions for trial ~~Offen~~ proms accused of offences and ~~Practice~~, ~~except such as are~~

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form*).

were authorised to exercise only such powers as are ~~Ac~~ executive in their nature, for instance, those referred to in Chapters VIII, IX, X, XI and XII of the Code of Criminal Procedure. Assistant Commissioners and the Ex. Officio First Class Magistrates in Charge of Revenue Sub Divisions were, however, empowered in ~~year 1929 in pursuance of~~ the ~~the~~ G.O. of 18.3.1929 read above, to try such cases as were referred to them by the Dist. Magistrates, when Special Magistrates could not try the same on personal or other grounds.

In View of ~~the~~ large increase in the number of Criminal Cases in the present emergency

and the necessity for their speedy
disposal, Govt ~~Considers~~ find that
it has become necessary to
empower Assistant Commissioners
and Amildars to take Cognizance
of and try Criminal Cases. They are accordingly
pleased to direct that ~~the~~ during the period of the War
~~future~~, Assistant Commissioners
in Charge of Revenue Sub-Divisions
and Amildars in Charge
of Taluks who are Magistrates
Ex-Officio be empowered to
take Cognizance of cases
under the Defence of India
Act as applied to Mysore
~~The~~ First and Second Classes
Assistant Commissioners
in Charge of Revenue
Sub Divisions ~~will also~~ be
take Cognizance of Cases
under the Mysore Public

(1) Government Order No. J.4850-4600/Cts. 312-12-I, dated 10th May 1918, sanctioning a scheme for separation of Judicial and Executive functions in the State and directing that Assistant Commissioners, Amildars and Deputy Amildars while continuing as Ex-Officio Magistrates, shall cease to exercise magisterial functions in practice except such as are really executive in their nature.

(2) Government Order No. P.5237-47/Cts. 186-22-I, dated 18th March 1929, directing that Assistant Commissioners and Ex-Officio Magistrates in charge of Revenue Sub-Divisions be empowered to try such cases as are referred to them by the District Magistrates when Special Magistrates cannot try them.

Notification

Under Sections 39 and 19 of the Code of Criminal procedure, 1904, Govt are pleased to empower the Assistant Commissioners in Charge of Revenue Sub-Divisions, who are Ex-Officio Magistrates of the First Class, by virtue of their Office, to take Cognizance of Cases under the Defence of India Act 1939, (XXXV of 1939) as applied to Mysore by Act XXVI of 1939, and the Rules thereunder, and under the Mysore Public Security Act, 1940 (XII of 1940).

By order

Secretary to Govt
Law Dept

335-46 dated 27-12-42

To The Compiler Mysore Gazette for publication

Copy to (1) The Regr. Inspr Courts
(2) The Revenue Commr
(3) The Dy. Inspr of Police
(4) The DHS of

P 4347/cts 160.

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Notification dt 17.12.4

Under Section 39 and 191 of the Code of Criminal procedure, 1904, Govt are pleased to empower the Amildars in Charge of Talukas who are Ex-Officio Magistrates of the Second Class, by Virtue of their Office to take Cognizance of cases under the Defence of India Act, 1939, (XXXV of 1939) as applied to Mysore by Act XXVI of 1939 and the Rules thereunder, arising in their Talukas etc upon 2nd class under the said Act & the Code of Criminal Procedure. By Order

Secretary to Govt
Law Dept

To
The Compiler Mysore Gazette for publication
-61 dated 17.12.42
Copy to (1) The Regr. High Court
(2) The Revenue Comr
(3) The I.G. of Police
(4) The DHs of districts

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

P.4347/Cts.160-42-3.

General and Revenue Secretariat,
Dated, Bangalore, the 17th December 1942.

NOTIFICATION.

Under Sections 39 and 190 of the Code of Criminal Procedure, 1904, Government are pleased to empower the Amildars in charge of Taluks, who are Ex-Officio Magistrates of the Second Class, by virtue of their Office, to take cognisance of cases under the Defence of India Act, 1939, (XXXV of 1939) as applied to Mysore by Act XXVI of 1939 and the Rules thereunder, arising in their Taluks and triable by Magistrates of the Second Class under the said Act and Rules, or under Schedule II of the Code of Criminal Procedure.

By Order,

for Secretary to Government,
Law Department.

To - The Compiler, Mysore Gazette, for publication in the Gazette.

khhe/11.